

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CELERITO ARANAS, ALIAS, BOY, ET AL. DEFENDANTS, ABDULLAH DAKILAN ALIAS ABDULLAH ALIUDIN, DEFENDANT-REVIEW.

G.R. No. L-27851. October 28, 1969

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PER CURIAM:

Automatic review of a decision of the Court of First Instance of Cotabato, convicting Abdullah Dakilan, alias Abdullah Aliudin, of the crime of robbery with multiple homicide and multiple frustrated homicide, with two (2) aggravating circumstances and no mitigating circumstance to offset the same, and, accordingly, sentencing him to the extreme penalty and to

indemnify the heirs of each of the following deceased persons, namely: Madali Sinsuat, Karon Ayob, Kari Ayob, Tating Ayob, Salek Camed, Omi Puna, Sabdullah Moro, Abdehil Daril and Pete Moro, in the sum of P3,000.00, as well as the following victims in the amounts set forth after their respective names, to wit:

1. Mocamad Puna

P5.000.00

2. Hadji Abas Bela

1,654.50

3. Kaunting Kamed

1,735.00

4. Bidi Aragasi

3,500.00

5. Samang Kayo

800.00

On September 14, 1964, the above-named defendant, together with Celerito Aranas, alias "Boy", Tati Ampasi and one John Doe, were accused, in the Court of First Instance of Cotabato, of the aforementioned crime, under an information alleging:

"That on or about December 24, 1963, at nighttime and on high sea, off-shore of Bongo Island, Municipality of Parang, Province of Cotabato, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, being then crew members of M/L Goles I, conspiring, confederating together and mutually helping one another, with intent of gain and by means of violence and with the use of high caliber firearms, such as pistol cal. 45 and rifles cal. 30, did then and there wilfully, unlawfully and feloniously take and carry away personal belongings of the following persons namely:

"Mocamad Puna:

Cash Money in the amount of

P5,000.00

"Hadji Abas Bela:

Cash Money in the amount of

P1,520.00

3 pants

42.00

2 Corsican shirts

60.00

1 Moslem Dictionary

14.00

1 Pair of shoes

16.00

1. Mocamad Puna

P5,000.00

2. Hadji Abas Bela

1,654.50

3. Kaunting Kamed

1,735.00

4. Bidi Aragasi

3,500.00

5. Samang Kayo

800.00

1 Tagalog Dictionary

_____2.50

P1,654.50

"Kaunting Kamed:

Cash Money in the amount of

P1,500.00

2 Corsican pants

60.00

1 New pair of shoes

25.00

1 Wrist watch

____150.00

P1,735.00

"Bidi Aragasi:

Cash Money in the amount of

P3,500.00

"Samang Kayo:

Cash Money in the amount of

____P800.00

Total

P12,689.50

all valued in the total amount of P12,689.50 to the damage and prejudice of the above-named persons in the sums shown opposite their respective names as indicated above; that on the occasion of said robbery and for the purpose of enabling them to take, steal and carry away the articles described above, the herein accused, in pursuance of their conspiracy, did then and there wilfully, unlawfully and feloniously, with intent to kill, attack, assault and shoot with firearms and pieces of iron the following persons on board said launch, namely: Madali Sinsuat, Caron Ayob, Cari Ayob, Tating Ayob, Salik Camed, Omi Pona, Sabdullah Moro, Abdehil Daril, Pete Moro, Samang Kayo, Kaunting Kamed, and Hadji Abas Bela, and as a consequence thereof, said Caron Ayob, Tating Ayob, Salik Camed, Omi Pona, Sabdullah Moro, Abdehil Daril, Pete Moro, Madali Sinsuat and Cari Ayob, sustained mortal wounds which caused their death, and the following persons Samang Kayo, Kaunting Kamed, and Hadji Abas Bela, suffered mortal wounds which would have produced their death but nevertheless did not produce it by reason of causes independent of the will of said accused that is, by the timely medical attendance rendered to said three persons which prevented their death.

"Contrary to law, with the qualifying circumstance of premeditation and aggravating circumstance of treachery and nighttime."

Defendant John Doe has not, as yet, been apprehended. After waiving their right to a preliminary investigation, the other defendants entered, upon arraignment, a plea of not guilty. Soon thereafter, defendant Ampasi died, in view of which, the information was dismissed, insofar as he was concerned, with costs de officio. Upon the submission of the evidence for the prosecution, as regards Aranas and Aliudin, the former withdrew his plea of not guilty and entered, in lieu thereof, that of guilty, whereupon, he was sentenced accordingly. After appropriate proceedings, decision was thereafter rendered against Aliudin, as above stated. Hence, the present automatic review, with respect to this defendant.

It is not disputed that on December 24, 1963, at about 8 p.m., the "kumpit" or M/L Goles I, belonging to Abdullah Puna, sailed from the waters of Cotabato City headed for British North Borneo, with 18 persons aboard, namely: defendants Celerito Aranas, as mechanic, and his brother-in-law, Abdullah Dakilan, alias Abdullah Aliudin, Tati Ampasi, Karon Ayob, Kari Ayob, Omi Puna, Abdehil Daril, and Madali Sinsuat, as members of the crew, as well as Tating Ayob, as their companion, and Sabdullah Moro, Pete Moro, Samang Kayo, Kaunting Kamed, Abas Bela, Salek Kamed, Mocamad Puna, Bidi Aragasi and Jose Escanlar, as passengers.

At about 11 o'clock that evening, while the "kumpit" was cruising between Bongo Island, which is part of the municipality of Parang, Cotabato, and Malabang, Lanao del Sur, and its passengers were asleep, some of them, namely, Samang Kayo, Abas Bela, Mocamad Puna, and Abdin Aragasi, alias Bidi Aragasi, who testified for the prosecution, as well as Madali Sinsuat and Kaunting Kamed, were awakened by a sudden burst of gunfire. Opening their eyes, said witnesses for the prosecution saw Aranas, Aliudin and Ampasi firing in their (former's) direction, in view of which, they scampered towards the prow, dived into the sea and then swam toward's a lifeboat, which Mocamad Puna and Aragasi had managed to drop from the M/L Goles I, before jumping overboard. The four (4) of them were joined in the lifeboat by Madali Sinsuat and Kaunting Kamed, both of whom had, seemingly, succeeded in similarly escaping from M/L Goles I. Sinsuat died, however, on the way to Bongo island - where they went by paddling with their bare hands - due to injuries sustained, in the abdominal region and the buttock, during the shooting.

It appears, from the testimony of Aranas, who testified for the defense, that the shooting had lasted for about 30 minutes, after which Aranas bade Ampasi to act as pilot and navigate towards the Port of Jolo, and that, at about 7 o'clock, the next morning, they found themselves near the Island of Sebago, between Basilan and Zamboanga. Shortly after 7 p.m., the "kumpit" was sighted, near the island of Jolo, by RPS Masbate, a Philippine Navy patrol boat, under the command of Lt. Manahan, which chased the "kumpit" and signalled the same to stop and come alongside the RPS Masbate, but the "kumpit" refused to do so. Soon, however, the patrol boat overtook it, although, before it managed to be alongside the craft, Aranas, Aliudin and Ampasi were seen throwing cargo, baggages and bags overboard. They were the only persons found aboard the "kumpit." Brought to the patrol boat, they were subjected to routine investigation, for possible violation of customs rules and regulations. Lt. Manahan then received a radiogram from the Philippine Constabulary in Jolo advising that a "kumpit" had been hijacked somewhere in the sea of Cotabato, and urging that the craft be intercepted. Thereupon, the investigators proceeded to interrogate along this line, and, soon, Aranas, Aliudin and Ampasi admitted that said "kumpit" was the very boat referred to in the report; that they had "hijacked" it; and that Aranas had killed two (2) of its passengers, whereas Aliudin and Ampasi had killed one (1) each. They, further, stated that these acts were committed by them because Karon Ayob, the man in charge of the "kumpit", had failed to turn over to Aranas the sum of PI 0,000.00 he had allegedly accumulated by smuggling into the Philippines untaxed cigarettes imported from British North Borneo - in which the "kumpit" had been engaged for sometime by Karon Ayob and Abdullah Puna - upon the ground that the cigarettes had been seized by the authorities; that said defendants, accordingly, conceived the plan and agreed to kill Karon Ayob; that, in conformity with this plan, in the night of December 24, 1963, they killed Karon Ayob and three (3) other passengers and disposed of their bodies by throwing the same into the sea; and

that the other passengers had jumped overboard. Aranas, Aliudin and Ampasi, were accordingly, turned over to the Constaoulary and, thereafter, the above-quoted information was filed, against them and John Doe.

The circumstances surrounding the apprehension of said defendants were established by the testimony of Nicanor Cabutotan, Nicolas Taronga and Daniel Cuachon, petty-officer, navigator and member of the crew, respectively, of the RPS Masbate. According to these witnesses for the prosecution, the statements made by Aranas, Aliudin and Ampasi during their aforementioned investigation on board the patrol boat were merely handwritten, because they (said witnesses) had another urgent mission that evening, although, soon thereafter, said statements were typewritten. It appears, however, that Aranas and Aliudin later refused to sign their typewritten statements.

It, also, appears that Mocamad Puna: Hadji Abas Bela, Kaunting Kamed, Bidi Aragasi and Samang Kayo had with them, in the evening of the occurrence, the sums of money and/or the effects enumerated in the information, which they left on board the M/L Goles I as they fled therefrom, and which were never recovered; that neither the person nor the bodies of Karon Ayob, Kari Ayob, Tating Ayob, Salek Kamed, Omi Puna, Abdullah Moro, Abdehil Daril and Pete Moro were ever found later; that, in consequence of the occurrence, Abas Bela had suffered lacerated wounds almost severing his right index and middle fingers, which required medical treatment from 3 to 4 weeks, and Samang Kayo sustained two (2) gunshot wounds, one on the posterior lateral aspect, middle third of the right thigh, and another on the lateral aspect, upper third of the left leg, which were not completely cured on January 4, 1964, whereas Kaunting Kamed had three (3) gunshot wounds, one on the medial aspect, middle third of the left thigh and two (2) on the anterior aspect of the distal third of the left forearm; and that Samang Kayo was, in the opinion of the physician who treated him, probably shot from behind.

Aliudin denied having had any participation whatsoever in the killing or shooting narrated by the witnesses for the prosecution.

He would have us believe that, at the time of the occurrence, he was asleep in a compartment not visible from the place of the shooting, and that, upon hearing the sound of gunfire, he hid himself in the place where crude oil was kept, until the boarding party from the navy patrol boat came.

Testifying for Aliudin, his brother-in-law, Aranas gave the following version: Coming from the engine room that evening, he saw Karon Ayob about to shoot Jose Escanlar. Thereupon, Aranas held Karon Ayob, but not soon enough to prevent him from firing at Escanlar, who fell down and was kicked into the sea. As Karon Ayob tried, in turn, to shoot him, Aranas hacked him with a bolo. Then, Aranas picked up Karon Ayob's gun and fired it at his brothers - presumably Kari Ayob and Tating Ayob - who rushed at him. Thereafter, he (Aranas) asked Ampasi, whom he saw walking around the prow of the "kumpit", why Karon Ayob had shot Escanlar. Ampasi replied that, when people try to collect from swindlers - referring to Karon Ayob and Bidi Aragasi - the latter resort to their guns.

Obviously, however, this evidence for the defense is unworthy of credence, and his Honor, the trial Judge, has correctly found it to be so. What is more, the defense has not shown, and we perceive no reason, why this finding should be disturbed.^[1] Indeed, Aliudin's theory does not explain, and is disproved by, the bullet wounds sustained by Samang Kayo, Kaunting Kamed and Madali Sinsuat. Besides, said evidence cannot offset the testimony of Samang Kayo, Abas Bela, Mocamad Puna and Abdin Aragasi, who positively identified Aliudin as one of those who, together with Aranas and Ampasi, engaged themselves in the shooting spree above referred to, particularly when we bear in mind that these witnesses for the prosecution had no possible motive to falsely impute to him the commission of so grave a crime as that charged. Added weight is given to their testimony by the fact that it has been confirmed by the statements made by Aliudin, Aranas and Ampasi, in the presence of each other, during the investigation conducted on board the RPS Masbate.

Considering that the only reason given by Aliudin and his co-defendants for their homicidal acts in the evening of the occurrence was the alleged failure of Karon Ayob to turn over to Aranas the sum of P10,000.00 allegedly belonging to him; that no effort has been made to explain why Aranas sought to collect said amount after departure from Cotabato, when the natural thing to do, considering that their purpose was to buy "blue seal" cigarettes in Borneo, was to have the necessary capital in readiness, before beginning the trip; that neither has Aliudin or Ampasi explained why this purely personal grievance of Aranas should impel them to join him in killing, not only Karon Ayob, but, also, other passengers of the "kumpit"; that none of the sums of money and other personal effects of the passengers of the "kumpit" were found therein when the same was boarded by members of the crew of the RPS Masbate, sometime after the occurrence; and that the "kumpit" was then headed for British North Borneo, where its passengers intended to buy untaxed "blue seal" cigarettes, in the smuggling of which into the Philippines the "kumpit" had been engaged, rather profitably, for several months prior to December 1963, it is obvious that the main purpose of Aliudin, his brother-in-law, Aranas, and Ampasi was to appropriate and, hence, steal the aforementioned sums of money and belongings to invest the same in the purchase of said cigarettes.

Inasmuch, also, as, with the exception of Samang Kayo, Abas Bela, Mocamad Puna, Abdin Aragasi, Kaunting Kamed and Madali Sinsuat, who died on the way to Bongo Island, none of the other passengers and members of the crew, or their bodies, had ever been found or recovered thereafter, We are justified in concluding that all of them, in addition to Madali Sinsuat, had been killed, and that the crime committed by Aliudin is that of robbery with multiple homicide and multiple frustrated homicide, regardless of the number of victims involved.[2] The perpetration of the offense was attended by the aggravating circumstances of evident premeditation,[3] treachery, nighttime and uninhabited place, for Aliudin and his co-defendants had manifestly conspired and planned its commission, and then carried out their plan while the passengers were asleep, at nighttime, and the "kumpit" was miles away from the mainland.

Counsel de oficio maintains that the fact that Aliudin belongs to the cultural minorities should be considered as a mitigating circumstance in his favor, in addition to the privileged mitigating circumstance provided for in Art. 69 of the Revised Penal Code. This article refers, however, to deeds which are not wholly excusable by reason of the absence of some of the conditions required to justify the same or to exempt it from criminal liability, which is evidently inapplicable to the case at bar, there being therein absolutely nothing, not even remotely, to justify the commission of the crime charged or warrant exemption from criminal liability, which was incurred while all of the parties concerned, including Aliudin, were admittedly engaged in an attempt to commit another crime, that of smuggling, in violation of our customs laws, which, under existing conditions, has inured and is inuring to the grave detriment of the commonweal.

Upon the other hand, the fact of being a member of the cultural minorities does not necessarily constitute a mitigating circumstance.[4] Besides, the record discloses nothing to indicate that Aliudin is so unenlightened as to suggest the consideration of lack of instruction of his favor. At any rate, the same is insufficient to offset the effect of the four (4) aforementioned aggravating circumstances - of which two (2) only were considered by His Honor, the trial Judge - and to detract from the propriety of the death penalty imposed by the lower court,[5] considering the number of persons killed in this case, and the other facts surrounding the same. Pursuant, moreover, to our consistent jurisprudence, since *People v. Pantoja*[6] the indemnity due to the heirs of each of the deceased victims should be increased from P3,00.00 to P12,000.00.

WHEREFORE, with the aforementioned modification, particularly as to the indemnity due to the heirs of Madali Sinsuat, Karon Ayob, Kari Ayob, Tating Ayob, Salek Kamed, Omi Puna, Sabdullah Moro, Abdehil Daril and Pete Moro, the decision appealed from should be, as it is hereby, affirmed, in all other respects, with one-fourth (1/4)

of the costs against defendant Abdullah Dakilan, alias Abdullah Aliudin.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Teehankee and Barredo, JJ., concur.

[1] People v. Quintab, L-21417, Jan. 31, 1966; People v. Tania, L-18514, April 30, 1966; People v. Santos, L-17215-17, Feb. 28, 1967; People v. Labis, L-22087, Nov. 15, 1967; People v. Fontillas, L-25298, April 16, 1968; People v. Peralta, L-19069, Oct. 29, 1968; People v. Gutierrez, L-25372, Nov. 29, 1968.

[2] People v. Uday, 85 Phil. 498, 503; People v. Hernandez, 46 Phil. 48, 49; People v. Manuel, 44 Phil. 333; U.S. v. Ibanez, 19 Phil. 463.

[3] People v. Valeriano, 90 Phil. 15, 34.

[4] Lumiguís v. People, L-20338, April 27, 1967.

[5] An. 294, par. 1, Revised Penal Code.

[6] L-18793, Oct. 11, 1968, See also, inter alia, People v. Sangaran, L-21757, Nov. 26, 1968; People v. Gutierrez, L-25372, Nov. 29, 1968; People v. Buenbrazo, L-27852, Nov. 29, 1968; People v. Bakang, L-20908, Jan. 31, 1969; People v. Labutin, L-23513, Jan. 31, 1969; People v. Acabado, L-26104, Jan. 31, 1969; People v. Vacal, L-20913, Feb. 27, 1969; People v. Gonzales, L-23303-04, May 20, 1960; People v. Tapac, L-26491, May 20, 1969.

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